

McNamara Declaration

Exhibit 11

HIGHLY CONFIDENTIAL

Page 1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF NEW YORK
3
4 -----
5)
6 HACHETTE BOOK GROUP, INC.,)
7 et al.,)
8)
9 Plaintiff)
10)
11 vs.) C.A. No. 1:20-CV-041160-JGK
12)
13)
14 INTERNET ARCHIVE, et al.,)
15)
16 Defendant)
17)
18 -----
19
20
21
22
23 Reported by: Sandra A. Deschaine, SCR, RPR,
24 CLR, CRA
25 Job No. 5255420.

HIGHLY CONFIDENTIAL

ZOOM VIDEOTAPED DEPOSITION OF

IMKE C. REIMERS, PH.D.

FRIDAY, JUNE 3, 2022

10:13 a.m. - 6:40 p.m.

BOSTON, MASSACHUSETTS

HIGHLY CONFIDENTIAL

Page 21

1 I read the complaint to see what the
2 experience was like. I ended up reading
3 about 10 pages of the book, and then I put it
4 away. I don't usually read books on my
5 laptop.

6 Q. Was it relatively easy to borrow
7 the book?

8 A. Yes.

9 Q. And are you aware that the
10 Internet Archive permits users to download
11 the e-book on their iPad or other tablet?

12 A. I haven't looked that closely.

13 Q. Internet Archive provides the
14 entire book, the full book, correct?

15 A. As far as I know, yes.

16 Q. And it doesn't change the book or
17 add anything to it, correct?

18 A. Again, as far as I know, yes.

19 Q. How did you find the quality of
20 the PDF scan?

21 MR. GRATZ: Lacks foundation.

22 A. I found it fine.

23 BY MS. STEINMAN:

24 Q. Were the Internet Archive -- you
25 know, the e-book that you downloaded from the

HIGHLY CONFIDENTIAL

Page 22

1 Internet Archive, was it of a similar quality
2 to the Google Books scans? I know you
3 studied those.

4 A. I think my -- so the one book that
5 I borrowed seemed quite similar to the Google
6 Books scans. I mean, they all vary in
7 quality, so --

8 (Reporter clarification.)

9 THE WITNESS: They all vary in
10 quality or their quality varies.

11 BY MS. STEINMAN:

12 Q. If a member of the public wants to
13 read a given book that is available through
14 the Internet Archive, can he or she read the
15 free e-book on the Internet Archive instead
16 of taking the e-book out at a public library?

17 MR. GRATZ: Lacks foundation.

18 A. Yes, if it's available.

19 BY MS. STEINMAN:

20 Q. And if a member of the public
21 wants to read a given e-book that is
22 available on the Internet Archive, can he or
23 she read the free e-book on the Internet
24 Archive instead of buying the commercial
25 e-book?

HIGHLY CONFIDENTIAL

Page 23

1 MR. GRATZ: Lacks foundation.

2 A. Similarly, yes.

3 BY MS. STEINMAN:

4 Q. So the e-books on the Internet
5 Archive serve as a potential substitute for
6 the authorized e-books, correct?

7 MR. GRATZ: Objection, vague,
8 lacks foundation.

9 A. Potentially, they can. However,
10 it's going to be -- it's an empirical
11 question if they really do.

12 BY MS. STEINMAN:

13 Q. Are you familiar with the term
14 "controlled digital lending"?

15 A. Yes, I've come across it.

16 Q. And what do you know about the
17 Internet Archive's controlled digital lending
18 protocols? Is that something you've looked
19 into or is that something you just didn't
20 focus on in your report?

21 A. I didn't focus on this part in my
22 report.

23 Q. Fair enough.

24 So you haven't conducted any
25 investigation into the Internet Archive's